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| HOGAN & HARTSON L.L.P. 1999 AVENUE OF THE STARS SUITE 1400 LOS ANGELES, CA 90067 | | | EXAMINER SELBY, GEVELL V | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|-------------------------------|------------------------------------|--|
| Office Action Summary | Application No. 10/807,610 | Applicant(s) SHIBUTANI, ATSUSHI | |
| | Examiner Gevell Selby | Art Unit 2622 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-19, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-19, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 March 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-5, 7-19, 21, and 22 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. **Claims 1-5, 7-19, 21, and 22 are rejected under 35 U.S.C. 102(a) as being anticipated by Honda et al., US 6,606,451.**

In regard to claims 1, 21, and 22, Honda et al., US 6,606,451, discloses an imaging device, imaging method, and computer readable medium comprising:

an image capturing unit (see figure 20, element C21);

a first imaging control unit (see figure 20, element C01) that has the image capturing unit execute moving picture imaging (see column 6, lines 47-50 and column 9, lines 40-54);

a moving picture file creation unit (see figure 20, element C25) that creates a moving picture file based on moving picture data acquired through the moving picture imaging by the first imaging control unit (see column 7, lines 11-20);

a first recording control unit (see figure 20, element C36) that records in a memory the moving picture file created by the moving picture file creation unit (see column 7, line 21-29);

a recording instruction unit (release button) that instructs to record a still picture (see column 9, line 55 to column 10, line 3);

a still picture acquisition unit (see figure 20, elements C21 and a video signal recording and reproduction section) that acquires, when recording of a still picture is instructed by the recording instruction unit while the first imaging control unit is executing moving picture imaging and the first recording control unit is recording the moving picture file in the memory, still picture, data at the timing instructed (see column 9, line 57 to column 10, line 8);

a still picture file creation unit (see figure 20, element C25) that creates a still-picture file based on the still picture data acquired by the still picture acquisition unit (see column 7, lines 11-20);

a second recording control unit (see figure 20, element C36) that records in a memory the still picture file created by the still picture file creation unit (see column 7, lines 30-39); and

a third recording control unit (see figure 20, element C36) that records in the memory the still picture data acquired by the still picture acquisition unit as index picture data of the moving picture file recorded in the memory by the first recording control unit in addition to the still picture file created by the still picture file creation unit and recorded in the memory by the second recording control

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unit. (see column 7, lines 30-39 and column 9, lines 28-36 and see figure 32 and column 29, lines 40-51).

In regard to claim 2, Honda et al., US 6,606,451, discloses the imaging device according to claim 1, further comprising a second imaging control unit (see figure 20, element C01) that has the image capturing unit execute still picture imaging, wherein

the recording instruction unit instructs still picture imaging and still picture recording, the second imaging control unit has the imaging unit execute still picture imaging when the recording instruction unit instructs still picture imaging and still picture recording, and the still picture acquisition unit acquires still picture data obtained through still picture imaging by the second imaging control unit when the recording instruction unit instructs still picture imaging and still picture recording (see column 8, line 44 to column 9, line 6).

In regard to claim 3, Honda et al., US 6,606,451, discloses the imaging device according to claim 1, wherein, when the recording instruction unit instructs still picture recording, the still picture acquisition unit acquires still picture data at a timing of the instruction from among moving picture data obtained through the moving picture imaging by the first imaging control unit (see column 9, line 37 to column 10, line 8).

In regard to claim 4, Honda et al., US 6,606,451, discloses the imaging device according to claim 1, further comprising: a still picture imaging unit (see figure 20, element C21) that captures still pictures, wherein the recording instruction unit instructs still picture imaging and still picture recording, and a third imaging control unit (see figure 20, element C01) that has the still picture imaging unit execute still picture

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imaging when the recording instruction unit instructs still picture imaging and still picture recording, wherein the still picture acquisition unit acquires still picture data obtained through the still picture imaging by the third imaging control unit when the recording instruction unit instructs still picture imaging and still picture recording (see column 8, line 44 to column 9, line 6).

In regard to claim 5, Honda et al., US 6,606,451, discloses an imaging device according to claim 1, wherein it is inherent the Honda reference comprises a size reduction unit that reduces a picture size of still picture data acquired by the still picture acquisition unit the third recording control unit records the still picture data whose picture size is reduced by the size reduction unit in the memory as index picture data of the moving picture file, since the reference discloses reduced size images displayed in an index for the user to select to see the larger version there must a unit the reduce these image and a unit to store them for display when needed (see figure 32)

In regard to claim 7, Honda et al., US 6,606,451, discloses an imaging device according to claim 1, wherein the third recording control unit records in the memory still picture data acquired by the still picture acquisition unit as accompanying data of the moving picture file that is recorded in the memory by the first recording control unit (see column 9, lines 66 to column 10, line 3).

In regard to claim 8, Honda et al., US 6,606,451, discloses an imaging device according to claim 1, wherein the third recording control unit records in the memory still picture data acquired by the still picture acquisition unit as head picture data of the

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moving picture data in the moving picture file that is recorded in the memory by the first recording control unit (see figure 32 and column 29, lines 46-50).

In regard to claim 9, Honda et al., US 6,606,451, an imaging device according to claim 1, further comprising an imaging instruction unit (recording ON/OFF button) that instructs moving picture imaging, wherein the first imaging control unit has the image capturing unit execute moving picture imaging when the imaging instruction unit instructs the moving picture imaging (see column 9, lines 51-54).

In regard to claim 10, Honda et al., US 6,606,451, discloses an imaging device according to claim 9, wherein the third recording control unit records in the memory first still picture data acquired by the still picture acquisition unit after the imaging instruction unit instructs the moving picture imaging as index picture data of the moving picture data (see column 9, lines 28-30).

In regard to claim 11, Honda et al., US 6,606,451, discloses an imaging device according to claim 1, wherein, when the recording instruction unit (release button) instructs still picture imaging a plurality of times during execution of the moving picture imaging by the first imaging control unit, the still picture acquisition unit acquires a plurality of still picture data at timings of the instructions (see column 9, line 55 to column 10, line 3),

the still picture file creation unit creates a plurality of still picture files based on the plurality of still picture data acquired by the still picture acquisition unit (see column 9, lines 1-4);

the second recording control unit records in the memory the plurality of still picture data acquired by the still picture acquisition unit (see column 9, lines 30-36), and the third recording control unit records in the memory the plurality of still picture data acquired by the still picture acquisition unit as index picture data of the moving picture data (see column 9, lines 28-30).

In regard to claim 12, Honda et al., US 6,606,451, discloses an imaging device according to claim 1, further comprising a judging unit that judges whether the recording instruction unit instructs still picture imaging during execution of the moving picture imaging by the first imaging control unit (see column 9, lines 55-60: the microcomputer determines whether the release button is pressed to take still images), wherein the third recording control unit records in the memory head picture data of moving picture data recorded in the memory by the first recording control unit as index picture data of the moving picture data, when the judging unit judges that still picture imaging is not instructed (see figure 32 and column 29, lines 46-49: the memory head picture or icon is saved when a still picture imaging is not instructed since the icon is always saved with the moving image).

In regard to claim 13, Honda et al., US 6,606,451, discloses an imaging device according to claim 1, further comprising an index picture reproducing unit (see figure 32, element 315) that reproduces still picture data that is recorded as index picture data in the memory by the third recording control unit, since the reference discloses displaying index pictures (see column 29, lines 40-51).

In regard to claim 14, Honda et al., US 6,606,451, discloses an imaging device according to claim 13, wherein the index picture reproducing unit includes a unit that reproduces a plurality of still picture data recorded in the memory as index picture data by the third recording control unit (see figure 32), and further comprising a selection unit (see figure 32, element 323) that selects desired still picture data among the plurality of still picture data reproduced by the index picture reproducing unit, and a moving picture reproducing unit that reproduces moving picture data corresponding to the still picture data selected by the selection unit (see column 29, lines 40-51).

In regard to claim 15, Honda et al., US 6,606,451, discloses an imaging device comprising:

- a image capturing unit (see figure 20, element C21);

- a first imaging control unit (see figure 20, element C01) that has the image capturing unit execute moving picture imaging (see column 6, lines 47-50 and column 9, lines 40-54);

- a first recording control unit (see figure 20, element C36) that records in a memory the moving picture imaging by the first imaging control unit (see column 7, line 21-29);

- a recording instruction unit (release button) that instructs to record a still picture (see column 9, line 55 to column 10, line 3);

- a still picture acquisition unit (see figure 20, elements C21 and a video signal recording and reproduction section) that acquires, when recording of a still picture is instructed by the recording instruction unit while the first imaging

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control unit is executing moving picture imaging and the first recording control unit is recording the moving picture file in the memory, still picture data at the timing instructed (see column 9, line 57 to column 10, line 8);

a second recording control unit (see figure 20, element C36) that records in a memory the still picture file created by the still picture acquisition unit (see column 7, lines 30-39); and

a third recording control unit (see figure 20, element C36) that records timing information that specifies the timing instructed in correlation to the moving picture data that is recording in the memory by the first recording control unit, when recording of a still picture is instructed by the recording instruction unit while the first imaging control unit is executing moving picture imaging and the first recording control unit is recording moving picture data in the memory (see column 7, lines 30-39 and column 9, lines 28-36 and see figure 32 and column 29, lines 40-51);

a still picture extracting unit (see figure 26, element 206) that extracts, based on the timing information recorded in correlation to the moving picture data in the memory, from the moving picture data the still picture data at the timing instructed to record the still picture (see figures 28 and 29 and column 26, line 60 to column 27, line 33); and

an index image reproduction unit (see figure 27, element 213) that reproduces the still picture data extracted by the still picture extracting unit as index image data of the moving picture data (see column 25, lines 22-42).

In regard to claim 16, Honda et al., US 6,606,451, discloses the imaging device according to claim 1, further comprising a second imaging control unit (see figure 20, element C01) that has the image capturing unit execute still picture imaging, wherein the recording instruction unit instructs still picture imaging and still picture recording, the second imaging control unit has the imaging unit execute still picture imaging when the recording instruction unit instructs still picture imaging and still picture recording, and the still picture acquisition unit acquires still picture data obtained through still picture imaging by the second imaging control unit when the recording instruction unit instructs still picture imaging and still picture recording (see column 8, line 44 to column 9, line 6).

In regard to claim 17, Honda et al., US 6,606,451, discloses an imaging device according to claim 15, wherein the timing information is information indicative of the number of picture frames (see column 27, line 54 to column 28, line 9: when simultaneous shooting mode or multiple frames are determined, timing is set to reproduce to 20 seconds).

In regard to claim 18, Honda et al., US 6,606,451, discloses an imaging device according to claim 15, wherein the timing information is information indicative of an elapsed time from the time the moving picture imaging is started until the still picture imaging is instructed (see column 27, line 54 to column 28, line 9: elapsed time of 10 seconds).

In regard to claim 19, Honda et al., US 6,606,451, discloses an imaging device comprising:

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an image capturing unit (see figure 20, element C21);

a first imaging control unit (see figure 20, element C01) that has the image capturing unit execute moving picture imaging (see column 6, lines 47-50 and column 9, lines 40-54);

a recording instruction unit (release button) that instructs to record a still picture (see column 9, line 55 to column 10, line 3);

a second imaging control unit (see figure 20, elements C01) that has the image capturing unit execute still picture imaging when imaging of a still picture is instructed by the imaging instruction unit during execution of the moving picture imaging by the first imaging control unit (see column 9, line 57 to column 10, line 8);

a recording control unit (see figure 20, element C1) that correlates moving picture data obtained through the moving picture imaging by the first imaging control unit with still picture data obtained through the still picture imaging by the second imaging control unit during execution of the moving picture imaging by the first imaging control unit to obtain said moving picture data, and then records in a memory the moving picture data and the still picture data correlated with each other (see column 9, line 57 to column 10, line 8); and

an index image reproduction unit (see figure 27, element 213) that reproduces the still picture data extracted by the still picture extracting unit as index image data of the moving picture data recorded in the memory in correlation to said still picture data (see column 25, lines 22-42).

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lin Ye can be reached on 571-272-7372. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



LIN YE
SUPERVISORY PATENT EXAMINER

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

gvs



LIN YE
SUPERVISORY PATENT EXAMINER